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He wrote about a 'Puzzle Palace,' and the US would rather he hadn't

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James Bamford finds himself in an odd position.

He has written a book about how the United States government has invaded the privacy of its citizens, and now the government says Bamford is invading *its* privacy.

Bamford, a 35-year-old author-lawyer from Natick, has completed what may be the most revealing book written about the National Security Agency (NSA), an organization whose existence for many years was denied by the government and whose initials, according to one Washington joke, stood for No Such Agency.

The NSA, whose main job is electronic intelligence-gathering, is so secret that it was created within the Defense Department by a 1952 presidential order that has never been made public, and that has been implemented by directives that also have eluded the public view.

Since July, the Justice Department and the NSA have been demanding that Bamford return — and not publish in his book — the contents of "Top Secret" documents that the Justice Department declassified and released to Bamford in 1979 under the Freedom of Information Act.

"The government is trying to classify, after the fact, an unclassified document I have," Bamford said. "It's kind of a scary precedent to set."

Bamford's book, "The Puzzle Palace: A Report on America's Most Secret Agency," is scheduled for publication by Houghton-Mifflin Co. in the fall.

"When I set out to write," Bamford said in an interview last week, "I didn't set out to write a nursery rhyme. I set out to write about a controversial topic." But, he added, "this is not a diatribe against the NSA. I think we need the NSA. It is very important and it is one of the best tools we have against the Soviet Union."

The documents, which the Justice Department said were released "only due to acknowledged errors in procedure" and which Bamford said constitute only a small portion of his book, provide an inside view of the history and some of the operations, legal and otherwise, of the NSA. And they reveal several previously undisclosed facts of life in the intelligence community. From the 250 pages of documents obtained by The Globe it has been learned:

- That the Justice Department, during a 1975-76 investigation of NSA espionage tactics, had uncovered 23 categories of "questionable activities" by the agency, but recommended against prosecuting or investigating further any of them. The examination of NSA was undertaken as part of the increased scrutiny given many US intelligence agencies, including the FBI and CIA, during the Ford Administration.

- That the British national security agency, Government Communications Headquarters (GCHQ), had eavesdropped on American citizens and organizations and then provided the information to American intelligence officials as part of domestic US espionage operations, which are illegal. It is unclear from the documents where the eavesdropping occurred.

How far the government will go to get back the documents, from which portions had been deleted before they were released, is uncertain. Justice Department and NSA officials said last Friday they would not discuss either legal strategies or the contents of the documents.

Bamford believes the real bone in the throat of the US government is the single paragraph about the British intelligence service. "That's a very important disclosure," Bamford said, "because it means that the British can intercept domestic US communications traffic that the NSA is prohibited from intercepting and then just turn the product, the tapes, en masse, over to the NSA. And we would do the same for them."

The arrangement, Bamford said, gives the NSA "deniability. They can just run those tapes and [claim] they haven't done a thing illegal."

Most of the 23 categories of "questionable activities" cited by the Justice Department in its 1975-76 investigation of NSA appear to involve two previously reported operations, Minaret and Shamrock. The statute of limitations had passed on some of the activities, some "clearly possess no prosecutive potential," and "only eight merit further discussion," the Justice Department concluded, according to the declassified documents Bamford received.

During Minaret, the NSA gathered information about political dissident groups for the FBI and Secret Service. The critical paragraph that the Justice Department and NSA apparently want returned to "Top Secret" status states that some of the intelligence information collected under Minaret came from the British GCHQ. Under Shamrock, the NSA had an arrangement with some cable companies to intercept international communications.

The Justice Department concluded that if prosecution were to proceed against NSA officials, "there appears to be little likelihood, if any, that convictions could be obtained on the basis of currently available evidence or evidence which might reasonably be developed."

In addition, the investigators said that "there is likely to be much 'buck-passing' from subordinate to superior, agency to agency, agency to board or committee, board or committee to the President, and from the living to the dead. The defense may be expected to subpoena every tenuously involved government official and former official to establish legitimate authorization or convoluted theories or pur-

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porated authorization... the confusion, obfuscation and surprise testimony which might result cannot be ignored."

The department also said that those accused of violating the law might, in their defense, seek to bring into the record national security materials "as well as sensitive foreign intelligence gathering methodology and technology."

The legal questions about the documents, which were released during the Carter Administration, first surfaced last July. Bamford said a Justice Department lawyer suggested then that the government might have to rely on criminal espionage charges against him to get the information back. Since then, in letters to Bamford and to his attorney, the Justice Department has not cited any criminal or civil statutes, but has appealed to Bamford's "duty and obligation as a United States citizen" to return the information.

The government, wounded when it sought pre-publication restraints on the Pentagon Papers, seems unlikely to go that route again. The question now, especially since several elements of the documents are coming out, is what the government will do when the book rolls off the presses.

"It would be inappropriate to discuss our legal strategy, if any, outside of the judicial process," said Thomas P. DeCair, the Justice Department's director of public information.

The Justice Department, in letters to Bamford and his attorney, maintains that because the documents were not reviewed first by the NSA, they were declassified and released "only due to acknowledged errors in procedure" and, therefore, remain "Top Secret."

Bamford and his attorney, Mark Lynch, of the American Civil Liberties Union in Washington, cite an executive order that says, "Classification may not be restored to documents already declassified..." They also argue that the Justice Department intentionally did not show the documents to the NSA because they involved a Justice Department investigation of the NSA.

To Bamford, the government's interest in trying to retrieve the documents came as a surprise.

Aside from the fact that he had held the documents for two years, Bamford said, they represented only a portion of the massive amounts of revealing information he had gathered about the NSA, which Bamford says, is many times larger, and spends far more money each year, than the CIA.

"The entire book, the whole book, is based on unclassified documents and interviews with current and former NSA officials," Bamford said. From the beginning, he said, he explained to the NSA that he was writing a book, and the agency provided him a rare tour of its facilities at Ft. Meade, Md.

Bamford said that in addition to detailing how the NSA operates, his book will reveal several previously undisclosed domestic targets of the NSA, the ease with which government officials have been able to place certain persons and organizations on the NSA's "watch list," and the laxity of NSA's own security.

The book also will detail agreements between Washington and foreign governments for exchange of intelligence information and the existence of NSA's complex network of listening posts around the world. It also will explain the threat that the current espionage technology holds for individual privacy, Bamford said.

Surveillance technology has reached the point, Bamford said, that when certain names or code words are mentioned in a telephone conversation, a telex message or other electronic or satellite communications, recording devices may be triggered into operation.

Until the Justice Department and NSA began demanding return of his documents, Bamford said, he thought he would be the first person to write about the NSA without interference from the government. Previous efforts to write about the supersecret agency and its predecessors have, to varying degrees, been frustrated.

Bamford interviewed the widow of the first person to expose The Black Chamber, a secret US code-breaking agency that existed in the 1920s. Edna Yardley, widow of former Black Chamber director Herbert Yardley, told Bamford how Yardley's book had been killed after only one edition.

A second Yardley attempt was halted when the Justice Department seized the manuscript in the 1930s, Bamford said. The 950-page manuscript remained hidden until 1979, when Bamford found it in the National Archives in Washington. He had it declassified, and portions will be included in his book.

Another attempt to reveal the machinations of the NSA came in 1967 when David Kahn wrote "The Codebreakers," the most comprehensive book yet about American cryptology.

Bamford said his book will include several paragraphs that were deleted from Kahn's book at the request of the NSA. Those paragraphs, which Bamford said did not come from Kahn or NSA officials, also deal with British intelligence.

From the time he graduated from Suffolk University Law School in 1975 and decided he "wasn't interested in handling somebody's divorce or saving some fat guy \$50,000," Bamford has been pursuing his two primary interests in life: writing and exploring obscure countries that only a cartographer would know exist. In researching and writing his book, Bamford has indulged both those interests.

"The NSA," he said, "is the equivalent of the Lost Continent."